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In re Application of
Hudson, et al.
Application No.: 10/520,275
PCT No.: PCT/CA03/01076
Int. Filing Date: 18 July 2003
Priority Date: 18 July 2002
Attorney's Docket No.: 10704-19 MIS:jb
For: SCRAMBLED EGG SNACK FOOD

DECISION

This application comes before the PCT Legal Office for matters arising under 35 U.S.C. 371. No petition fee is due.

BACKGROUND

On 18 July 2003, applicant filed international application PCT/CA03/01076 which claimed the benefit of earlier United States provisional applications, the earliest of which was filed 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 January 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 18 January 2005.

On 18 January 2005, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an application data sheet and the basic national fee of \$950 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/520,275.

On 19 August 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee. The notice set a response period of two (2) months.

DISCUSSION

A review of the application file reveals that applicant did not provide a customer number on the original transmittal letter filed on 18 January 2005. However, an error was made and the attorney docket number was entered as the customer number. As a result the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 19 August 2005 was mailed to the wrong address. Because applicant did not ever receive that notification, that notification is hereby vacated.

CONCLUSION

For the above reasons, the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) mailed 19 August 2005 is hereby vacated.

The application is being returned to the United States Designated/Elected Office for the mailing of a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) to the proper address.



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